

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Donna Dornath,
Petitioner-Appellant,

v.

Webster County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 13-94-0071
Parcel No. 1025100008

On October 18, 2013, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Donna Dornath was self-represented. County Attorney Cori Kuhn-Coleman represented the Webster County Board of Review. Dornath requested a written consideration. The Appeal Board having reviewed the record and being fully advised finds:

Findings of Fact

Donna Dornath is the owner of a rural residential, single-family property located at 2622 Lainsen Avenue in Otho, Iowa. According to the property record card, the property has a one-story, frame residence built in 1952 with 896 square feet of living area on the main level; a full, unfinished basement; and 314 square feet of finished attic. The dwelling also has two enclosed porches. The home is listed as being of average quality grade (4-5) and is in normal condition. Other improvements include a barn and two utility buildings. The barn is 1008 square feet and was built in 1952. The first utility building is 1100 square feet and built in 1952. The second utility building is 936 square feet and built in 1900. The site is 8.71 acres.

Dornath protested to the Board of Review regarding the 2013 assessment of \$86,210, allocated as \$36,580 in land value and \$49,630 in improvement value. Her claim was based on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). In this case, Dornath asserted the assessed value of the subject property is too low and should be raised. She claimed the property should be assessed at \$115,000. The Board of Review denied her claim.

Dornath then appealed to this Board reasserting her claim.

The essence of Dornath's claim is that the property is under-assessed. We note the overarching purpose of assessment law is to ascertain the fair market value of a property and assess it at 100% of that value. § 441.21(1). However, the Iowa Code does not explicitly contain grounds for protesting an assessment on the basis that the property is under-assessed. Likewise, case law interpreting section 441.37(1)(a)(2) would be inapplicable to a claim that the property is under-assessed. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995) (requiring a showing that the assessment is excessive and the subject property's correct value). Therefore, we find Dornath's claim is more akin to an error claim under section 441.37(1)(a)(4), which was properly preserved in her protest to the Board of Review and appeal to PAAB.

In her petition to the Board of Review, Dornath stated: "When inherited, it was assessed at \$115,000 - property has held value and land prices have increased." The property record card shows the subject property's highest assessment was \$104,380 in 2009. In 2010, it was lowered to a total assessed value of \$68,890. In 2011, Dornath protested to the Board of Review asserting the subject property was undervalued and its correct value was between \$85,000 and \$95,000. At that time, the Board of Review changed the condition of the dwelling and the property classification from Agriculture to Rural Residential resulting in an increased assessed valuation on the subject property to \$86,660 for the January 1, 2011 assessment date. It remained the same for 2012.

The January 1, 2013, assessment is \$86,210. Dornath protested to the Board of Review, again asserting the assessment undervalues the subject property. In her appeal to this Board, Dornath asserts she made improvements to the property and believes land values have increased. However, she does not provide any evidence of improvements, or how those improvements may have increased her property's value. Further, she did not provide any evidence, such as comparable sales, to support what she believes is the correct fair market value.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

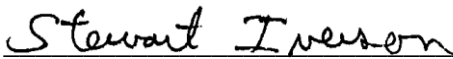
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as

income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

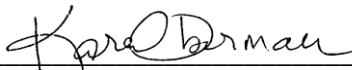
The plain language of section 441.37(1)(a)(4), allows a protest on the ground “[t]hat there is an error in the assessment.” § 441.37(1)(a)(4). While “[a]n error in the assessment *would most probably* involve erroneous mathematical computations or errors in listing the property[,] [t]he improper classification of property also constitutes an error in the assessment.” Iowa Administrative r. 701-71.20(4)(b)(4) (emphasis added). This language suggests that other errors may constitute grounds for appeal pursuant to section 441.37(1)(a)(4). Ultimately Dornath provided no evidence to establish there was an error in the assessment and the property was under-assessed.

THE APPEAL BOARD ORDERS the assessment of Donna Dornath's property located at 2622 Lainson Avenue, Otho, Iowa of \$86,210 as of January 1, 2013, set by the Webster County Board of Review, is affirmed.

Dated this 6th day of November, 2013.


Stewart Iverson, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:


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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on November 6, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other


Signature _____